

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Assess and Revise  
the New Regulatory Framework for Pacific Bell  
and Verizon California Incorporated.

Rulemaking 01-09-001  
(Filed September 6, 2001)

Order Instituting Investigation on the  
Commission's Own Motion to Assess and Revise  
the New Regulatory Framework for Pacific Bell  
and Verizon California Incorporated.

Investigation 01-09-002  
(Filed September 6, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING ELIGIBILITY TO CLAIM INTERVENOR COMPENSATION**

This ruling finds that The Utility Reform Network (TURN) is eligible to claim compensation in this proceeding pursuant to Pub. Util. Code § 1801 et seq.<sup>1</sup> This ruling was made after consultation with the assigned Commissioner.

**Background**

On April 5, 2002, TURN filed a notice of intent (NOI) to claim compensation with respect to its work related to Rulemaking 01-09-001 and Investigation 01-09-002. There was no response to TURN's NOI.

The intervenor compensation program set forth in § 1801 et seq., allows eligible public utility customers to receive compensation for the reasonable costs they incur to participate in a Commission proceeding where they are found to

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<sup>1</sup> All statutory references are to the Public Utilities Code.

have made a substantial contribution. A customer who intends to seek compensation must file an NOI to claim compensation. After the NOI is filed, a ruling must be issued on whether the customer is eligible to claim compensation.

### **Timeliness**

A customer who intends to seek compensation must file and serve an NOI within the timeframe set by §1804(a)(1). The statute states:

A customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation. In cases where no prehearing conference is scheduled or where the commission anticipates that the proceeding shall take less than 30 days, the commission may determine the procedure to be used in filing these requests. In cases where the schedule would not reasonably allow parties to identify issues within the timeframe set forth above, or where new issues emerge subsequent to the time set for filing, the commission may determine an appropriate procedure for accepting new or revised notices of intent.

The prehearing conference was held on March 6, 2002, and the deadline for filing NOIs was April 5, 2002. TURN timely filed its NOI on April 5, 2002.

### **Customer Status**

Pursuant to Decision (D.) 98-04-059, a person or entity filing an NOI must include the following information in their NOI to demonstrate that they are a “public utility customer” as defined by § 1802(b):

When filing its Notice of Intent, a participant should state how it meets the definition of customer: as a participant representing consumers, as a representative authorized by a customer, or as a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers. A group or organization should provide a copy of its articles or bylaws, noting where in the document it is

authorized to represent the interest of residential ratepayers. (D.98-04-059, Conclusion of Law 5.)

Groups should indicate in the Notice of Intent the percentage of their membership that are residential ratepayers. Similarly, a "representative authorized by a customer" should identify in his Notice of Intent the residential customer or customers that authorized him to represent that customer. (*Id.*, Finding of Fact 12.)

TURN states in its NOI that it is a non-profit consumer advocacy organization that has a long history of representing the interests of residential and small business customers before the Commission. TURN also states that its articles of incorporation ("articles") authorize TURN to represent residential customers. TURN further states that it provided the relevant portion of its articles in the NOI submitted in A.98-02-017, and again in A.99-12-024. TURN states that its articles have not changed since these earlier submissions. Finally, TURN states that it has approximately 30,000 dues-paying members. TURN believes that the vast majority of its 30,000 members are residential customers.

TURN has made an adequate showing in accordance with D.98-04-059 that TURN is a public utility customer as defined in § 1802(b).

### **Nature and Extent of Planned Participation**

Section 1804(a)(2)(A)(i) requires the NOI to describe the nature and extent of the customer's planned participation.

TURN states that it has been an active participant in this proceeding. For example, TURN attended the pre-hearing conference, filed opening and reply comments regarding the scope of the proceeding, participated in settlement discussions regarding the Verizon audit, conducted cross-examination at the Phase 1 evidentiary hearings, and is currently briefing Phase 1 issues. TURN

states that it will be even more active in Phases 2 and 3, and has a number of expert witnesses working on those Phases already.

TURN's statement regarding its participation in this proceeding satisfies the requirements of § 1804(a)(2)(A)(i).

### **Estimate of Compensation**

Section 1804(a)(2)(A)(ii) requires the NOI to provide an itemized estimate of the compensation that the customer expects to request.

In its NOI, TURN provided the following itemized estimate of the compensation that it expects to request:

|   |                         |
|---|-------------------------|
| Attorney Christine Mailloux – 100 hours at \$250 per hour:            | \$25,000                |
| Research Analyst Regina Costa – 300 hours at \$200 per hour:          | \$60,000                |
| Attorney James Anthony – 1,200 hours at \$210 per hour:               | \$252,000               |
| Supervising Attorn. Robert Finkelstein – 200 hours at \$340 per hour: | \$68,000                |
| Expert Witnesses re: Service Quality – 350 hours at \$130 per hour:   | \$45,500                |
| Expert Witnesses re: Phase 3 Issues:                                  | \$50,000                |
| Expert Witnesses re: Audit Issues:                                    | \$30,000                |
| Support Expenses:   | \$19,000                |
| <b>Total:</b>   | <b><u>\$549,500</u></b> |

TURN's NOI satisfies the requirements of § 1804(a)(2)(A)(ii). This ruling does not address the merits of TURN's itemized estimate of the compensation that it expects to request.

### **Significant Financial Hardship**

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Section 1804(b)(1) states in part:

A finding of significant financial hardship shall create a rebuttal presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.

TURN received a finding of significant financial hardship in a ruling issued on December 29, 2000, by the assigned Administrative Law Judge (ALJ) in A.00-09-002. This proceeding commenced within one year of the ALJ ruling issued in A.00-09-002. Therefore, pursuant to § 1804(b)(1), there exists a rebuttal presumption that TURN's participation in this proceeding poses a significant financial hardship for TURN.

Therefore, **IT IS RULED** that:

1. TURN is eligible to claim intervenor compensation in this proceeding.
2. This Ruling in no way assures that compensation will be awarded.

Dated April 30, 2002, at San Francisco, California.

/s/ TIMOTHY KENNEY

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Timothy Kenney  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Eligibility to Claim Intervenor Compensation on all parties of record in this proceeding or their attorneys of record.

Dated April 30, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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